IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 32757 of 2007(Y)

OS.37/1997 of PRL.MUNSIFF COURT,THRISSUR
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PETITIONER:

SUBRAMANIAN,S/O.CHENNAKUZHI SANKARAN
AVANOOR VILLAGE, DESOM, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENTS: RESPONDENT

RAJAN @ RAJACHANDRAN,
S/O.CHENNAKUZHI SANKARAN
AVANOOR VILLAGE, DESOM, THRISSUR TALUK.
AVANOOR PO.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.32757 OF 2007

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Dated this the 5th day of November 2007

JUDGMENT

This writ petition is filed challenging Ext.P12 order passed by the Prl.Munsiff, Thrissur. The said application was one for removing the Commissioner as the interim report submitted by him is not correct. The court disposed of the matter that only preliminary work is done and report is not filed and therefore it is dismissed as premature. The various applications filed by the present petitioner will only tend to add confusion to the matter. Whatever it is, there is a compromise decree entered into between the parties, which is accepted by the parties. When executing such a compromise decree, the court has to implement the intention of the parties and see that the terms of the compromise are implemented. Therefore when a party has objected that, it is not the way in which it is to be done, then the court is bound to consider it and hear within the four corners of the compromise decree which is binding on both the parties.

2. Here, the grievance is that the Commissioner has not been very fair and the Commissioner has done the work without properly

understanding the impact of the same and therefore at one breadth he wants the Commissioner to be changed and the report of the Commissioner to be set aside. The court shall specifically direct the Commissioner to file a final report within a specified time then permit both the parties to file their objections, if any, and in case any of the parties file an application for remitting or setting aside the Commissioner's report, it should be considered on merit by the court after affording equal opportunity to the parties and thereafter pass an order. I make it very clear that a final decision shall not be rendered without adverting to the matters mentioned above.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-